THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24543 of 2006

Dated: 27-11-2006

Between:

V. Ashok and others.

.....

PETITIONERS

AND

State of Andhra Pradesh, rep. by its Principal Secretary,
Hyderabad, and others.

.....RESPONDENT

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24543 of 2006

ORDER:

The petitioners, who are allegedly owners of land admeasuring Acs.2.00 in survey No.157/1(part) situated at Thokatta Village, Thirmulgherry Mandal in Secunderabad, executed an agreement of sale-cum-Irrevocable General Power of Attorney in favour of respondent No.4 and presented the same on 07-10-2006 before respondent No.2 for registration. The petitioners submit that respondent No.3 issued impugned notice dated 12-10-2006 informing them that the document is kept pending for want of clearance from the Government under Section 22-A of the Registration Act, 1908 (the Registration Act, for brevity) and also under the Urban Land (Ceiling and Registration) Act, 1976, (ULC Act, for brevity). Therefore, the present writ petition is filed.

Be it noted, a Division Bench of this Court in W.P.No.14099 of 2003 and batch by a common order dated 07-12-2005, following the decision of the Supreme Court in **State of Rajasthan and others vs. Basant Nahata**[1], has declared Section 22-A of the Registration Act as amended by the Registration (Andhra Pradesh Amendment) Act, 1999, as ultra vires. It is brought to the notice of this Court that Special Leave Petition filed by the State Government against the said judgment was also dismissed by the Supreme Court on 11-08-2006. Therefore, insofar as the objection of respondent No.3 asking the petitioners to get clearance certificate under Section 22-A of the Registration Act is concerned, the same is unsustainable. So far as the other objection is concerned, the petitioners may have to approach respondent No.2, who is duly constituted as Appellate Authority.

Therefore, the impugned notice dated 12-10-2006 is set aside and the writ petition, with the above observations, is accordingly disposed of directing the second respondent or any other Registering Officer to accept the document presented by the petitioners and consider the same for registration. Be it noted, if for any reason, the document presented is not registered, it is incumbent on the part of the Registering Officer to record and furnish reasons under Section 71 of the Act. Even thereafter, if the petitioners have any grievance, they may file appeal before the Appellate Authority under Section 72 of the

Act. Thereafter, if any adverse order is passed by the Appellate Authority or if respondent No.2 insists upon clearance under ULC Act, the petitioners may have to avail remedies under Section 77 of the Registration Act by filing a suit. No costs.

(**V.V.S.RAO, J**)

27th November, 2006
ghn

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[1] 2005 AIR SCW 4456